

GREENEBAUM DOLL & McDONALD

(A PARTNERSHIP INCLUDING PROFESSIONAL SERVICE CORPORATIONS)

3300 FIRST NATIONAL TOWER
LOUISVILLE, KENTUCKY 40202
TELEPHONE (502) 589-4200
TELECOPIER (502) 589-4412
TELEX 213029

LEXINGTON OFFICE
1400 VINE CENTER TOWER
LEXINGTON, KENTUCKY 40593
(606) 231-8500
TELECOPIER (606) 253-2742
TELEX 218333

GREENEBAUM DOLL McDONALD & FRALEY
20 NORTH ORANGE AVENUE, SUITE 1100
ORLANDO, FLORIDA 32801
(305) 425-1800
TELECOPIER (305) 422-7090

A. ROBERT DOLL*
ROBERT F. MATTHEWS
WILLIAM C. BOONE JR.
LARAMIE L. LEATHERMAN**
EDWIN H. PERRY
IRWIN J. EISINGER
THOMAS A. BROWN
MARVIN J. HIRN
MICHAEL G. SHANKIN*
MARTIN L. WEINBERG*
IVAN M. DIAMOND*
MICHAEL N. FLEISHMAN**
LAWRENCE K. BARKS
PHILLIP D. SCOTT
E. VAN YOUNG
EDWARD B. WEINBERG*
CHARLES FASLER
RICHARD S. HOLT*
JOHN A. WEST
MICHAEL L. ADAMS
ROBERT E. FRALEY**
W. FLUMER WISEMAN JR.
ERIC L. ISON
JOHN S. REED, II
JOHN H. STITES, III
EDWARD A. GETTY

ROBERT C. STILZ, JR.
JOHN R. CUMMINS
JAMES E. MILLMAN
P. RICHARD ANDERSON, JR.
LLOYD E. CRESS
CHARLES J. LAVELLE
MARK S. AMENT*
DAVID M. ROTH
JAMES A. KEGLEY
MARCUS P. MCGRAW
JAMES G. LAMASTER**
JOE D. TURNER, III
DOROTHY M. PITT
DAVID W. HARPER
JAMES E. COX
JOHN S. SAWYER
HIRAN ELY, III
JOHN V. WHARTON
JUNE NALLEY KING
GARY B. WHITKAMP
PEGGY B. LYNDLUP
JAMES F. HEEKIN JR.**
GREGORY D. HYDE**
PATRICIA W. BALLARD
SCOTT W. BRINKMAN
NICHOLAS R. GLANCY

JOHN E. SELENT
SCHUYLER J. OLT
PATRICK A. NEPUTE
BARRY J. SOBERING*
BARBARA R. HARTLING
RICHARD S. CLEARY
HARTWELL P. MORSE, III
MICHAEL C. SLONE
MARGARET E. KEANE
ELOISE D. BRADSHAW
CARMIN D. GRANDINETTI
ALAN H. DANIELS**
JAMES A. HARTMAN**
JANET R. JAKUBOWICZ
DANNY C. REEVES
RICHARD J. EMMETT
MARK S. RIDDLE
C. JOHNSTON CRAMER, III
JAMES C. MALCH
MASTEN CHILDERS, II
TANDY C. PATRICK
HOLLAND V. McTYRE V
E. DOUGLAS RICHARDS
WILLIAM D. ROBERTS
PATRICK J. WELSH
W. BRADFORD BOONE

SUSAN J. HOFFMANN
PHILIP C. ECKELS
STEPHEN G. WAGNER
CAROLYN M. BROWN
JOEL C. ZWERNER
KATHIE M. McDONALD
GREGORY A. COMPTON
STEVEN L. SPALDING
JILL L. FORCE
DAVID W. REGAN
DEBORAH S. HOLLAND
GREGORY W. GLASS**
T. RICHARD RINEY
LIDA A. KLINGLER
JONATHAN B. MORRIS
WILLIS W. HOBSON V

OF COUNSEL
LILLIAN M. FLEISCHER
W. BRUCE LINDSFORD
STEPHEN R. McNAMARA**
GLENN A. HOSKINS
S. L. GREENEBAUM (1902-1973)
ANGUS W. McDONALD (1912-1988)
W. VAN MEYER ALFORD (1916-1981)

RECORDATION NO. 15086 Filed & Recorded

OCT 28 1985 11:35 AM

October 22, 1986

INTERSTATE COMMERCE COMMISSION

Secretary, Interstate Commerce Commission
Washington, D.C. 20423

Gentlemen:

I have enclosed an original and one copy of a document to be recorded pursuant to Section 11303 of Title 49 of the United States Code. This document is a Mortgage and Security Agreement, a primary document dated September 29, 1986.

The names and addresses of the parties to the document are as follows:

1. Mortgagor:

B-Four, Inc.
Highway #862
Madisonville, KY 42431

2. Mortgagee:

First National Bank of Louisville
101 South Fifth Street
Louisville, KY 40202

The description of the equipment covered by the document is as follows:

Three (3) General Motors switching locomotives, each of 1200 horsepower and bearing serial nos. 1246, 1249 and 1250.

Including all attachments, accessories, accessions and improvements to the above described three (3) locomotives.

6-3014021
No. 6-3014021
Date OCT 28 1986
Fee \$ 10.00

ICC Washington, D. C.

MO: 11 31 AM '86

GREENEBAUM
DOLL & McDONALD

Secretary, Interstate Commerce Commission
October 22, 1986

A check for the recording fee of \$50 is enclosed. Please return the original and any extra copies not required by Commission for recordation.

A short summary of the document to appear in the index follows:

A Mortgage and Security Agreement between B-Four, Inc., Madisonville, Kentucky as Mortgagor and First National Bank of Louisville as Mortgagee, covering three General Motors Switching Locomotives.

Very truly yours,


Gregory A. Compton

GAC/keh
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

10/28/86

Gregory A Compton
Greenebaum Doll & McDonald
3300 First Natl. Tower
Louisville, KY. 40202

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/28/86 at 11:35am, and assigned re-recording number(s). 15086

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

OCT 28 1985 11:35 AM

9/27/86

INTERSTATE COMMERCE COMMISSION

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT is made and entered into as of the 29th day of September 1986, by and between (i) B-FOUR, INC. ("B-Four"), a Kentucky corporation with its principal office and place of business at Madisonville, Kentucky and whose address is Highway #862, Madisonville, Kentucky 42431, and (ii) FIRST NATIONAL BANK OF LOUISVILLE ("Bank"), a national banking association having its principal place of business, post office and residence at 101 South Fifth Street, Louisville, Jefferson County, Kentucky 40202.

IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

1. For good and sufficient value received, B-Four hereby pledges, mortgages, assigns, transfers and grants a security interest in all the following collateral (the "Collateral") to the Bank, to-wit:

Three (3) General Motors Switching Locomotives, each of 1200 horsepower and bearing serial numbers 1246, 1249 and 1250.

Including all attachments, accessories, accessions and improvements to the above-described three (3) locomotives.

2. (a) This Mortgage and Security Agreement is made and granted by B-Four to the Bank in order to secure the full and punctual payment to the Bank of:

(i) That certain Term Loan Promissory Note of even date herewith (the "Term Note"), made by Charolais Corporation, a Kentucky corporation with principal office and place of business in Madisonville, Kentucky ("Charolais"), payable to the order of the Bank, and in the face principal amount of Four Million Dollars (\$4,000,000.00); (ii) that certain Revolving Credit Promissory Note of even date herewith (the "Revolving Credit Note") made by Charolais, payable to the order of the Bank, and in the face principal amount of Six Million Dollars (\$6,000,000.00); (iii) that certain Term Loan Promissory Note of even date herewith (the "Bowles Note") made by Betty J. Bowles, payable to the order of Bank, and in the face principal amount of One Million

Five Hundred Thirty-Three Thousand Dollars (\$1,533,000.00) (the Term Note, the Revolving Credit Note and the Bowles Note are herein-after collectively referred to as the "Notes"); and (iv) all other indebtedness, obligations and liabilities of whatever kind of B-Four, Charolais, Donald E. Bowles or Betty J. Bowles to the Bank, whether created directly or acquired by the Bank by assignment or otherwise, whether now existing or hereafter created or arising, absolute or contingent, joint or several, due or to become due, including but not limited to, all future loans and advances made by the Bank to the foregoing named corporations and individuals.

(b) The maturity date of (i) the Term Note is March 31, 1989, (ii) the Revolving Credit Note is October 31, 1987 and (iii) the Bowles Note is March 31, 1989.

(c) The Notes have all been made and issued in accordance with certain Loan Agreements by and among the parties hereto and certain other parties (hereinafter referred to as the "Loan Agreements").

3. B-Four hereby warrants and represents to the Bank that:

(a) B-Four is a duly organized and validly existing corporation, in good standing, under the laws of Kentucky and is duly qualified to transact business in all other jurisdictions where its business and applicable law so require.

(b) B-Four has title to the Collateral free and clear of all liens, encumbrances and security interests, except the lien and security interest granted to the Bank by this Mortgage and Security Agreement and the lien of any ad valorem or property taxes which are not yet due and payable.

(c) B-Four has the right and power to obtain and obligate itself on the loans represented by the Notes and to enter into and perform its obligations under this Mortgage and Security Agreement; and the execution and delivery of the Notes and this instrument do not violate any provision of the Articles of Incorporation or By-Laws of B-Four, or any term or condition of any material contract, indenture or agreement to which B-Four is a party.

(d) The acquisition of the Collateral, the loans evidenced by the Notes and the execution and delivery of this instrument have all been duly and fully authorized by B-Four and all other necessary parties, and the Notes and this instrument when duly executed and delivered will constitute valid, binding and enforceable obligations of B-Four.

4. B-Four hereby covenants and agrees with the Bank that B-Four will:

(a) Not use or operate, nor will B-Four authorize or permit its lessees or other persons to use or operate, any of the Collateral outside of the forty-eight contiguous states of the United States. Should any of the Collateral ever be used in, leased in, or its use permitted in Canada (or any province or territory thereof) or in Mexico (or in any state of the Federal District thereof), B-Four shall immediately notify Bank and take all necessary action to protect the right, title and interest of the Bank in the Collateral and will furnish the Bank with an opinion of Canadian or Mexican counsel, as the case may be, satisfactory to the Bank to the effect that the action taken by B-Four is all that is necessary to protect fully the right, title and interest of the Bank in the Collateral.

(b) Defend and protect the Collateral against all adverse claims and demands, and promptly notify the Bank in writing of any such claim or demand asserted against any of the Collateral.

(c) Mark each locomotive forming part of the Collateral appropriately to show the ownership of B-Four and with its assigned reporting mark and number in accordance with the rules and regulations of the American Association of Railroads (A.A.R.), and B-Four will maintain and cause the Collateral to be always to marked while this instrument remains in effect and will not, during such period, cause or allow the Collateral to be marked so as to indicate ownership in any other party or to be remarked or renumbered without the prior written consent of the Bank, nor will B-Four allow any of the Collateral to be marked so as to indicate a lien thereon allegedly held by any party other than the Bank. The Bank may at any time and from time to time require B-Four to mark some or all of the Collateral to indicate the Bank's lien thereon hereunder.

(d) Maintain the Collateral or cause the same to be maintained in good and proper working order and condition throughout the period this instrument remains in effect, and

the Collateral shall not be used for any purpose other than normal rail transportation of coal without the prior written consent of the Bank.

(e) Permit the Bank and its agents to inspect the Collateral and the books and records of B-Four regarding same at any reasonable time, and from time to time, and will at all times keep track of the location of each piece of the Collateral and will promptly on request by the Bank furnish same a statement setting forth the location and condition of each locomotive forming part of the Collateral.

(f) Pay all taxes and other governmental assessments, charges and impositions levied upon the Collateral on or before the respective due dates therefor and prior to the attachment to the Collateral of any penalties or interest for late payment; provided, however, that B-Four may contest the payment of any such items as set forth in the Loan Agreements. The Bank shall have the right to demand proof of the timely payment of all such taxes and governmental charges and shall have the right, on the failure of B-Four to so pay same, after notice to B-Four and the failure of B-Four to pay same within fifteen (15) days, to pay all such taxes and governmental charges itself on behalf of B-Four and B-Four shall reimburse the Bank therefor, together with interest on the amounts so paid by the Bank accruing after the fifteen (15) day notice period at the per annum rate of five and one-half percent (5-1/2%) in excess of the then current "Prime Rate"), promptly upon demand by the Bank. The term "Prime Rate", as used herein, shall have the same meaning accorded said term in the Notes.

(g) Pay the Notes, and all installments of principal and interest thereunder, and all other amounts owed by B-Four, to the Bank hereunder and otherwise, in full when, as and how due.

(h) Pay and reimburse the Bank for the reasonable expenses, including reasonable attorneys' fees, incurred in the preparation of this Mortgage and Security Agreement and other documents pertaining to this transaction, and for the reasonable cost of all recording and filing deemed necessary by Bank to perfect its lien on the Collateral.

(i) Promptly notify the Bank in writing in the event any of the locomotives forming the Collateral are substantially damaged or destroyed as a result of any accident, calamity or other occurrence, and will assign and pay directly to the Bank any compensation as a result of such damage or destruction of the Collateral received under

the American Association of Railroads Mechanical Interchange Rules, under any insurance policy or otherwise, and B-Four authorizes the Bank to act as B-Four's irrevocable attorney-in-fact to apply any such compensation or proceeds to the replacement of the damaged or destroyed Collateral, pursuant to procedures satisfactory to the Bank, unless an Event of Default has occurred hereunder, in which event the same may, at the sole option of the Bank, be applied to the indebtedness secured hereby in such order as the Bank may elect in its sole and absolute discretion.

5. B-Four hereby covenants and agrees with the Bank that B-Four will not:

(a) Permit any other chattel mortgages, security interests, liens or other encumbrances to attach to any of the Collateral other than those permitted by the Loan Agreements;

(b) Permit any of the Collateral to be seized, attached or levied upon under any legal process, except as otherwise permitted by the Loan Agreements;

(c) Sell, contract to sell, exchange, transfer or otherwise dispose of any of the Collateral, without the prior written consent of the Bank.

(d) Permit or suffer anything to be done, excluding normal use of the Collateral, that may in any way impair the value of any of the Collateral or the security intended to be afforded by this Mortgage and Security Agreement.

(e) Use, permit the use of, or lease for use any of the collateral predominately outside the United States of America within the meaning of §48(a) of the Internal Revenue Code of 1954 (the "Code"), as amended to the date of this Mortgage and Security Agreement, or permit the use of the Collateral by any person in whose hands the Collateral would not qualify as "§38 property" within the meaning of said Code.

6. B-Four will at all times maintain or cause to be maintained property and casualty insurance in respect of the Collateral in at least the amounts and against the risks as prudent railroad companies customarily insure similar equipment owned by them; provided, however, that the amount of such coverage shall not, at any time, be less than Thirty Thousand Dollars (\$30,000.00) for each of the locomotives referenced in Section 1 hereof (with a deductible or retained liability of the insured of

not greater than Six Thousand Dollars (\$6,000.00)). The Bank shall be named as loss payee or an additional insured under all such insurance policies and the proceeds of such insurance shall be payable to the Bank and B-Four as their respective interests may appear.

B-Four will at all times carry and maintain or cause to be carried and maintained public liability insurance, naming the Bank as an additional named insured, in at least the amounts and against the risks as prudent railroad companies customarily insure similar equipment owned by them; provided, however, that the amount of such coverage shall not, at any time, be less than One Million Dollars (\$1,000,000.00) (with a deductible or retained liability of the insured of not greater than One Hundred Thousand Dollars (\$100,000.00)) per occurrence. Any policy of insurance carried in accordance with this §6 shall not provide for any payment of premiums or commissions by the Bank.

B-Four shall obtain from each insurer issuing a policy in satisfaction of the terms of the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Bank at least thirty (30) days written notice prior to the effectiveness of any modification or cancellation of the policy issued by such insurer. On the execution hereof, B-Four shall deliver to the Bank a binder, policy or certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy which policies together satisfy the provisions of this §6, and B-Four shall at least thirty (30) days prior to the expiration of each such policy present to the Bank satisfactory evidence of the renewal, extension or replacement thereof.

7. B-Four shall not, while the Notes remain outstanding and this Mortgage and Security Agreement remains in effect, dissolve, wind up its affairs, liquidate in whole or in part, or sell substantially all of its assets, nor merge, consolidate or pool its assets with any corporation, partnership, joint venture or any other person or business entity.

8. (a) Each of the following shall constitute and be deemed an "Event of Default" hereunder"

(i) Any maker shall fail to pay in full any installment of principal and/or interest, or any other amount, due under any of the Notes at the time and in the manner due under the terms of the Notes and shall further fail to cure such default within ten (10) days of written notice thereof from the Bank;

demand made therefor by the Secured Party, and if not so paid the same shall be deemed to constitute an Event of Default hereunder.

8. Sale of Collateral. In addition to the requirement set forth in Section 5(a)(iii) hereof that the Debtor must obtain the prior written consent of the Secured Party prior to any sale, transfer or other disposition of the Collateral or any part thereof, the Debtor further agrees that it will not sell any of the Collateral for a purchase price (both gross and net) which the Secured Party has not consented to in advance in writing. Further, the Debtor hereby agrees that one hundred percent (100%) of the "Net Sales Proceeds", as hereinafter defined, from the sale of any of the Collateral shall be paid to the Secured Party, immediately upon receipt thereof by the Debtor, to be applied by the Secured Party to the Secured Obligations in such order as the Secured Party may elect in its sole and absolute discretion. Secured Party will not release its security interest in any Collateral sold unless the Debtor has paid over to Secured Party, for application to the Secured Obligations as provided above, the Net Sales Proceeds received by the Debtor from the sale of such Collateral. Debtor shall cause all of the Net Sales Proceeds from any such sale to be paid jointly to the Debtor and the Secured Party, and if any of the Net Sales Proceeds are in the form of a promissory note, check, draft or other document or instrument made payable to the Debtor, the Debtor shall deliver the same to the Secured Party as required above, appropriately endorsed to the Secured Party's order, and the Debtor hereby authorizes the Secured Party to endorse the same in the Debtor's name and on the Debtor's behalf as the Debtor's irrevocable attorney-in-fact. For purposes of this Security Agreement, Net Sales Proceeds means the entire proceeds received from the sale of any of the Collateral less all commissions and other expenses of sale charged to, and actually incurred by, the Debtor.

9. Events of Default. Each of the following shall constitute an Event of Default hereunder:

(a) The failure of Charolais or Betty J. Bowles, as applicable, to pay the principal of and/or accrued interest on any of the Notes when due or within any applicable grace period;

(b) If the Debtor fails in any manner to keep and perform any of the covenants, stipulations and agreements to be performed by the Debtor pursuant to this Security